IN THE HIGH COURT OF UTTARANCHAL
AT NAINITAL

Writ Petition No. 2391 (S/S) of 2001
Old No.
Writ Petition No. 44643 of 1999

Smt. Anita Upadhyay,
Wife of Sri Lalit Mohan Upadhyay,
Assistant Teacher, (LT Grade),
Rajkiya Kanya High School,
Chinyali Saur,
District – Uttarkashi. **…….Petitioner**

Versus

1. The Madhyamik Sanyukta Shiksha Nideshak, Garhwal, Mandal, at Pauri.
2. The District Inspector of Schools, Uttarkashi.

……Respondents

Hon'ble M.M. Ghildiyal, J.

No one is present on behalf of the petitioner. Sri Subhash Upadhyay, learned standing counsel is present on behalf of the respondents.

By means of this writ petition, the petitioner has challenged the order dated 17.06.1999 passed by Joint Director of Education, Garhwal Mandal, Pauri by which the appointment of the petitioner on the post of Assistant Teacher had been cancelled.

The facts of the case are that the petitioner was appointed as Assistant Teacher vide order dated 18.11.1998 passed by Joint Director of Education, Garhwal Mandal, Pauri. In pursuance to the aforesaid order petitioner joined her duties on 01.12.1998. On 17.06.1999, the Joint Director of Education, Garhwal Mandal, Pauri cancelled the earlier appointment order dated 18.11.1998 of petitioner and started fresh selection proceedings. Petitioner was again selected and fresh appointment was given to the petitioner on 18.06.1999. In pursuance to the appointment order dated 18.06.1999 petitioner

joined her duties as Assistant Teacher in the same Institution i.e. Government Girls Higher Secondary School, Chinyalisaur, Uttarkashi on 01.07.1999. Since the petitioner was not paid salary for the period from 01.01.1999 to 30.06.1999 she claimed salary for the period and also for continuity in service.

Learned standing counsel has submitted in the counter affidavit that salary for the period 01.01.1999 to 30.06.1999 has been paid to the petitioner with a condition that the payment is made subject to the final decision of the writ petition.

It appears that the petitioner was initially appointed as Assistant Teacher and there was some complaint against the then Joint Director of Education, Garhwal Mandal, Pauri due to which fresh selection was made and the petitioner was again selected. In pursuance to that she again joined as Assistant Teacher in Government Girls Higher Secondary School, Chinyali Saur, District Uttarkashi. From the facts it reveals that petitioner was selected earlier in accordance with law and the petitioner was entitled for continuity in service. Petitioner has been working for that period during which she has not been salary.

Since in the fresh selection, the petitioner has been again selected and still continuing in service and also salary for the intervening period has already been paid. Nothing remains for adjudication. Writ petition has become infructuous and as such, the writ petition is disposed of as infructuous.

(M.M. Ghildiyal, J)

March 20, 2006
SKSharma